

NATURAL RESOURCES COMMISSION
Meeting Minutes
April 20, 2016

Pursuant to the notice filed with the Town Clerk, the meeting of the Natural Resources Commission was held at 141 Keyes Road, first floor conference room, Concord, MA at 7:00 p.m. on Wednesday, April 20, 2016. The following Commissioners were present: Greg Higgins, Chair, Lynn Huggins, Chip Poutasse, and Judy Zaunbrecher. Delia Kaye, Natural Resources Director, Lori Capone, Assistant Natural Resources Director, and Natural Resources Administrative Assistant Karen Bockoven, were also present.

Chair Higgins opened the meeting at 7:00 p.m. in accordance with the Wetlands Protection Act, M.G.L. Chapter 131, Section 40, and the Concord Wetlands Bylaw.

Concord Municipal Light Plant, 214Y Main Street, DEP File #137-1341	7:00 pm
Town of Concord, CPW Engineering, Assabet Avenue, DEP File #137-1323	7:00 pm
Milltarry Offices Registered LLP, 91 Lowell Rd & 105 Keyes Rd, DEP File #137-1315	7:00 pm
Damonmill Square Properties LLC, 9 Pond Lane, DEP File #137-1307	7:00 pm
Elton, 415 Lowell Road, DEP File #137-1161	7:05 pm
KW Concord LLC, 740 Elm Street, DEP File #137-1321	
Town of Concord, CPW Engineering, 40X Bedford Street, DEP File #137-1338	7:15 pm
Chris Stakutis, 51 Black Duck Road, RDA File #16-5	7:25 pm
Frederick Ryan, 113 Adams Road, RDA File #16-6	7:30 pm

CONTINUANCES

Abbreviated Notice of Resource Area Delineation for Concord Municipal Light Plant, 214Y Main Street, DEP File #137-1341

Chair Higgins opened the hearing seeking confirmation from the Natural Resources Commission of the Bordering Vegetated Wetland and Bank of the Assabet River delineations.

At the request of the Applicant, Commissioner Huggins moved to open and continue the hearing to May 4, 2016. Commissioner Zaunbrecher seconded. All so voted.

Notice of Intent Application for the Town of Concord - CPW Engineering, Assabet Avenue, DEP File #137-1323

Chair Higgins reopened the hearing to install two overflow pipes and rip-rap swales within Bordering Vegetated Wetlands, Land Under Waterbodies and Waterways, Bordering Land Subject to Flooding, the 200-foot Riverfront Area to the Assabet River, and the 100-foot Buffer Zone to Bank and Bordering Vegetated Wetlands.

At the request of the Applicant, Commissioner Huggins moved to continue the hearing to May 4, 2016. Commissioner Zaunbrecher seconded. All so voted.

Notice of Intent Application for Milltarry Offices Registered LLP, 91 Lowell Road & 105 Keyes Road, DEP File #137-1315

Chair Higgins reopened the hearing to construct a commercial market/office building, with associated parking, walkways, and drainage, a portion of which work is within Bordering Land

Subject to Flooding, the 200-foot Riverfront Area to Mill Brook, and the 100-foot Buffer Zone to Bordering Vegetated Wetlands.

At the request of the Applicant, Commissioner Huggins moved to continue the hearing to May 4, 2016. Commissioner Zaunbrecher seconded. All so voted.

Notice of Intent Application for Damonmill Square Properties, LLC, 9 Pond Lane, DEP File #137-1307

Chair Higgins reopened the hearing to repair and maintain an existing dam, stabilize the embankment, repair a section of wall, remove trees, and close the headrace and tailrace, a portion of which work is within Bordering Land Subject to Flooding, the 200-foot Riverfront Area to the Assabet River, and the 100-foot Buffer Zone to Bank and Bordering Vegetated Wetlands.

At the request of the Applicant, Commissioner Huggins moved to continue the hearing to May 4, 2016. Commissioner Zaunbrecher seconded. All so voted.

Request to Amend a Notice of Intent for Elton, 415 Lowell Road, DEP File #137-1161

Chair Higgins reopened the hearing for approval to construct an in-ground swimming pool, pool house, hot tub, and patio; and enclose an existing deck within the 100-foot Buffer Zone to Bordering Vegetated Wetlands.

Joshua Bath, of Nashawtuc Architects, attended tonight's meeting.

Mr. Bath stated that the homeowner is in the process of getting a certified site plan and an invasive species remediation plan and he is here tonight to obtain any additional feedback from the site visit held on April 5th. Commissioner Huggins commented that the site visit was very helpful. She has reviewed the Conservation Restriction (CR) which does prohibit the cutting of trees. However, if the work proposed is not detrimental to the interests that the CR is protecting, a balance can be struck. She believes a robust planting has to be proposed as mitigation for any tree work in the CR. Commissioner Huggins mentioned that the Commission received an email with an attached letter before their site visit from the homeowner with photographs of the existing conditions in the CR showing old farm equipment among other things. Commissioner Huggins said it is great to see that the homeowner has a goal to clean up the CR land. Mr. Bath asked if some trees could be removed with some robust mitigation. Commissioner Huggins commented that staff recommended a 2:1 ratio of native shrubs to mitigate for trees removed.

Commissioner Zaunbrecher mentioned the stone monument showing where the CR was but she was not sure where it was on the other side of the property. Mr. Bath replied that he could not locate it either but it will be survey located on the plan. The plan will also show the pool and pool house outside the 50-foot No Build Zone.

Commissioner Poutasse commented that there is an exemption for certain types of improvements if a lawn is being replaced. He asked if this proposed pool and pool house fall within that exemption. Director Kaye stated that they would be exempt greater than 50 feet from Bordering Vegetated Wetlands in existing lawn. Commissioner Poutasse inquired if this was new construction would the pool and pool house be approved. Chair Higgins explained that this probably may not have been permitted if it were new construction. This is something

the Commission needs to think about for the next time by adding a line item that someone will not be allowed to get other exemptions because a lawn was put in.

There were no public comments.

At the request of the Applicant the hearing was continued to May 4, 2016 to provide outstanding materials.

Notice of Intent Application for KW Concord LLC, 740 Elm Street, DEP File #137-1321
Chair Higgins reopened the hearing to construct a restaurant building, hotel addition, and retaining wall, with associated parking, walkways, and drainage, a portion of which work is within the 200-foot Riverfront Area to the Assabet River, and the 100-foot Buffer Zone to Bordering Vegetated Wetlands.

Staff informed the Commission that the applicant submitted a request to withdraw the application at this time.

There were no public comments.

The Commissioner Huggins moved to approve the applicant's withdrawal of the Application for 740 Elm Street, DEP File #137-1321. Commissioner Poutasse seconded. All so voted.

NEW APPLICATIONS

Notice of Intent Application for CPW Engineering, 40X Bedford Street, DEP File #137-1338
Chair Higgins opened the hearing for approval to repair a culvert and associated sink hole in the Reformatory Branch Trail within the 100-foot Buffer Zone to Bordering Vegetated Wetlands.

List of plans and documents discussed at this meeting:

- Notice of Intent Application; and
- Culvert C-4 NOI Plan prepared by the Concord Public Works, Engineering Division dated March 2, 2016.

William Renault, Public Works Engineer, and Ian McKenzie, Assistant Public Works Engineer, attended tonight's meeting.

Mr. McKenzie presented the plan to repair a culvert on the Reformatory Branch Trail, a former rail bed that starts at Concord Lumber and heads towards Bedford. Seven hundred feet north of Monsen Road is a stone box culvert where a 2-foot by 10-foot sinkhole has formed. The culvert still functions but the sinkhole needs to be repaired. CPW's plan is to excavate the area of failure, fill in gaps, and backfill to match existing grade. There is a rare plant identified by Natural Heritage Endangered Species Program in the vicinity of the culvert. Commissioner Huggins asked who will identify whether the plant is present in the work zone. Mr. McKenzie stated that DNR staff will survey the area prior to work.

Mr. McKenzie anticipates this being a one or two day job. They will access the site down the driveway to Great Meadows parking lot and drive up the trail. Chair Higgins asked what machinery would be used. Mr. McKenzie replied that they will probably rent a small tracked excavator and a five ton truck will be used to transport excavated materials to the Wastewater Treatment Plant. CPW will install straw wattles at the top of the slope.

Commissioner Poutasse inquired as to how long granite culverts last. Mr. McKenzie responded that the culvert has been in existence since the 1860's. When this culvert first had problems, Mr. McKenzie used a fiber optic camera to investigate the culvert. There were no stones that had fallen, just spaces between the stones. They are going to mortar gaps and if necessary use some $\frac{3}{4}$ " stone, 2 $\frac{1}{2}$ " minus, and install filter fabric on top to prevent future erosion.

Commissioner Poutasse was curious to know why they are patching rather than replacing the culvert. Mr. McKenzie explained that granite stands the test of time. Even with the sinkhole on top, the water still flows, it is not clogged. Because of these factors, it is much more cost effective and the structure itself is still good.

Mr. Renault informed the Commission that Natural Heritage has been provided a written plan that will delineate the plant so the contractor will avoid it.

There were no public comments.

The Applicant agreed to the Commission to continue the hearing to May 4, 2016.
Commissioner Huggins seconded. All so voted.

**Request for Determination of Applicability for Chris Statukis, 51 Black Duck Road,
RDA File #16-5**

Chair Higgins opened the hearing for approval to construct a front entry with covered landing and stairs to the existing house and relocate the walkway within the 100-foot Buffer Zone to Bordering Vegetated Wetlands.

List of plans and documents discussed at this meeting:

- Request for Determination of Applicability; and
- Narrative prepared by Nashawtuc Architects, Inc. dated March 23, 2016.

Joshua Bath, of Nashawtuc Architects, attended tonight's meeting.

Mr. Bath informed the Commission that Chris Stakutis would like to build a front entry to the house. The house is within the 100-foot Buffer Zone. The pond is 93 to 97 feet away and the proposed addition is approximately 8 feet to 8 feet 6 inches. Mr. Bath said there is an existing concrete walkway which they will be replacing with blue stone and cobblestones.

Commissioner Zaunbrecher asked if the amount of impervious area was changing. Mr. Bath said they plan on making the site more permeable than existing conditions.

There were no public comments.

Commissioner Huggins moved to Issue a Negative Determination of Applicability #3 for RDA File #16-5 with the following conditions: 1) A preconstruction site visit shall be held to review erosion controls and the limit of work; and 2) After the project has been completed, the Applicant shall submit a letter to the NRC stating that all work has been conducted in accordance with all conditions of this Determination of Applicability. Any changes from the RDA shall be described. Commissioner Poutasse seconded. All so voted.

**Request for Determination of Applicability for Frederick Ryan, 113 Adams Road,
RDA File #16-6**

Chair Higgins opened the hearing for approval to enclose an existing 10-foot by 16-foot porch/deck within the 100-foot Buffer Zone to Bordering Vegetated Wetlands.

List of plans and documents discussed at this meeting:

- Request for Determination of Applicability;
- Letter from OxBow Associates, Inc. dated August 4, 2003; and
- Plot Plan of Land prepared by R. Wilson and Associates dated October 29, 2003.

Frederick Ryan, 113 Adams Road, attended tonight's meeting.

Mr. Ryan presented his plan to screen in an existing deck. The footprint may be slightly larger than the existing deck to tie into the existing roof line. He may need to extend no more than 16 inches. Commissioner Zaunbrecher asked if the steps were remaining. Mr. Ryan replied yes. Mr. Ryan explained that the handrail was rotted and where the sona tubes would be replaced. The existing structure is within the 50 foot No-Build Zone (NBZ) and proposed work would be no closer to wetlands. Commissioner Zaunbrecher raised a concern that this would be expanding within the 50-foot NBZ. Chair Higgins responded that the Commission has on occasions allowed *de minimus* alterations to existing, non-conforming structures when there are no alternatives.

There were no public comments.

Commissioner Zaunbrecher moved to Issue a Negative Determination of Applicability #3 with the following conditions: 1) A preconstruction site visit shall be held to review erosion controls and the limit of work; 2) All work shall be accomplished by hand; and 3) After the project has been completed, the Applicant shall submit a letter stating that all work has been conducted in accordance with all conditions of this Determination of Applicability. Any changes from the RDA shall be described. Commissioner Poutasse seconded. All so voted.

MINOR MODIFICATIONS

Mandel, 47 Old Bedford Road, DEP File #137-1314: Install Solar Array

List of plans and documents discussed at this meeting:

- Proposed Solar Plan prepared by Endless Energy, received on April 20, 2016; and
- Correspondence from Laura Mattei, Sudbury Valley Trustees, dated April 14, 2016.

Nabih Younis from Endless Energy, attended tonight's meeting.

Mr. Younis presented the Solar Plan and explained what trees they want to take out and replant new trees behind the array. Assistant Director Lori Capone explained that there is a row of hemlocks that will be removed and will get replaced with hemlocks and holly on the Conservation Restriction (CR) land and that the Sudbury Valley Trustees, holder of the CR, has approved.

There were no public comments.

Commissioner Poutasse moved to approve a Minor Modification for DEP File #137-1314, 47 Old Bedford Road, to shift the solar array. Commissioner Zaunbrecher seconded. All so voted.

OTHER BUSINESS

Nominate Lynn Huggins to chair of the NRC

Commissioner Zaunbrecher moved to nominate Lynn Huggins as NRC Chair effective May 4, 2016. Commissioner Poutasse seconded. All so voted.

Concord-Carlisle @ Play, CCRHS Phase II work discussion

John Flaherty of the School Department, and John Boynton of CC@Play attended tonight's meeting.

Mr. Flaherty apologized for the repairs made to the shot put without the knowledge of CC@Play. Mr. Flaherty was asked by the athletic director to continue to use the area for the track and field team until the end of May of this year. After that time, they would transition the work and remove the pit.

Chair Higgins asked where the shot put was going. John Boynton responded that it will be constructed on the hill as part of Phase III which will commence on June 20th.

Commissioner Zaunbrecher asked what the area will be after the shot put is removed. Director Kaye stated that the area will be restored per the approved plan.

There were no public comments.

Sepe, Conservation Restriction at Ingham Lane (1888 Main Street)

Attorney Tom Falwell and Matt Sepe, Manager for 1888 Main Street LLC, attended tonight's meeting.

Atty. Falwell presented the Conservation Restriction (CR) for 1888 Main Street for acceptance by the NRC. It will be presented to the Select Board on May 9th.

Commissioner Zaunbrecher inquired about the difference between the Conservation Restriction land and the Perpetual Restriction land. Atty. Falwell responded that it is essentially the same but is not approved pursuant to Sections 31-33 of Chapter 184 of the General Laws. Director Kaye explained that the perpetual restriction allows structures and use of the land not in its natural condition.

Commissioner Poutasse asked how public access was allowed through the development to the river. Director Kaye said there is an easement through the development off Main Street so public can access the CR land, as well as access from the Assabet River. Mr. Sepe stated there are two public parking spots adjacent to the perpetual restriction area.

Commissioner Huggins moved to accept the Millstone Condominium CR as amended cover 1.14 acres at Ingham Lane and recommend approval to the Select Board. Commissioner Poutasse seconded. All so noted.

Bentley Builders, Conservation Restriction at Monsen Farm (261, 271, 281, 291 Monsen Road)

Attorney Tom Falwell attended tonight's meeting on behalf of Bentley Building Corp.

Atty. Falwell presented the Monsen Farm CR which has been favorably reviewed by the State.

Chair Higgins asked how the CR relates to the Scimone land. Mr. Falwell replied that as part of the permitting process through Natural Heritage, there was an agreement with the Scimones to restrict certain portions of their land and a Declaration of Restriction has been recorded on the property. A CR will need to be completed before that property is developed. Commissioner Huggins moved to approve the Monsen Farm CR for a parcel of approximately 1.18 acres granted by Bentley Building to the NRC as amended and recommend the Select Board approve the CR. Commissioner Zaunbrecher seconded. All so voted.

311 Lawsbrook Road, Memorandum of Understanding for Access Easement

Director Kaye presented the Memorandum of Understanding to allow the encroachment of the garage 1.2 feet into the easement. The owner will remove the driveway turnaround that is within the easement. Director Kaye recommended that the Commission vote to approve the Memorandum of Understanding. Commissioner Huggins asked if it would still be valid if the property is sold. Director Kaye answered that this MOU is strictly between Mr. First and the Town and it would not apply to a future owner.

Commissioner Huggins moved to approve the Memorandum of Understanding setting forth intentions, understandings, and undertakings between Timothy W. First of 311 Lawsbrook Road and the Town of Concord acting through its Natural Resources Commission regarding a right-of-way held by the NRC over the premises of 311 Lawsbrook Road with the understanding that this Memorandum of Understanding is effective with the current owner only. Commissioner Zaunbrecher seconded. All so voted.

Nicole Kelly, 57 Lexington Road, to be appointed to the Heywood Meadow Stewardship Committee

Commissioner Huggins moved to appoint Nicole Kelly, 57 Lexington Road, to the Heywood Meadow Stewardship Committee. Commissioner Zaunbrecher seconded. All so voted.

EXTENSION REQUEST

Winters, 53 Stacey Circle, DEP File #137-1225.

Assistant Director Capone presented a two-year Extension request for the Winters at 53 Stacey Circle in order to complete the additions on the front of the house. Commissioner Huggins moved to grant an extension for 53 Stacey Circle, DEP File #137-1225 for two years. Commissioner Zaunbrecher seconded. All so voted.

CLOSE & ISSUE PERMITS

Sachs, 920 Sudbury Road, DEP File #137-1335

Chair Higgins reopened the hearing to raze and reconstruct the existing pump house within the same footprint within the 200-foot Riverfront Area to C. Miles Run and the 100-foot Buffer Zone to Bank and Bordering Vegetated Wetlands.

Commissioner Zaunbrecher moved to close the hearing and issue Order of Conditions for Sachs, 920 Sudbury Road, DEP File #137-1335 with Findings A-C, Standard Conditions 1-19 and Special Conditions 20-45. Commissioner Poutasse seconded. All so voted.

CERTIFICATES OF COMPLIANCE

Mandeville, 1771 Main Street, DEP File #137-1310

Assistant Director Capone said this Order was for a septic system replacement completed last fall. The grass has now grown in and the site is stable.

Commissioner Zaunbrecher moved to issue a Certificate of Compliance for Mandeville, 1771 Main Street, DEP File #137-1310. Commissioner Poutasse seconded. All so voted.

Damonmill Square Properties, LLC, 9 Pond Lane, DEP File #137-185

Chair Higgins said this matter was in regards to a previous owner and was never finalized. The Commission requested this matter be discussed with the land owner at the next meeting.

Lewis, 75 (Lot 8) Channing Road, DEP File #137-361 & DEP File #137-315

Assistant Director Capone stated that DEP File #137-315 was the construction of the roadway and encompassed all the lots. There was a Certificate of Compliance signed by the Commission but it was not checked off as complete and was not recorded. Assistant Director Capone recommended that the Commission issue a partial Certificate of Compliance since it encompasses other lots. With regard to DEP File #137-361, it pertains to the construction of the house and Assistant Director Capone has inspected the property for compliance with the Order. There is a Conservation Restriction on the property and staff will be inspecting the site for issuance of an Estoppel Certificate. Assistant Director Capone recommended a full Certificate of Compliance on DEP File #137-361.

Commissioner Zaunbrecher moved to issue a Certificate of Compliance for Lewis, Channing Road, DEP File #137-361 and a partial Certificate of Compliance for Lewis, Channing Road, DEP File #137-315 for only Lot 8. Commissioner Poutasse seconded. All so voted.

Director's Report

- Director Kaye said that the property owners are conducting soil tests at Keuka Road which will be witnessed by the Health Division. It is within the Buffer Zone and is an exempt activity. Development on the property will not have the ability to tie into the sewer system.
- Concord Museum is designing improvements to their site. They plan to expand the parking lot, and construct a stormwater basin, a portion of which will be within the 50-foot No Build Zone (NBZ) and up to the edge of the 25-foot No Disturb Zone (NDZ). The proposed location is somewhat degraded with invasive species. The Commission was not adverse to the proposal to construct the basin in the 50-foot NBZ but needed more information to understand potential alternatives.
- The MBTA plans to install 65 to 100-foot high monopoles along the commuter rail, about every mile. The Town of Lincoln, through their Planning Director, requested that the MBTA attend a meeting to discuss the need for the structures. The Town of Lincoln is hosting a public meeting with the MBTA on April 26, 2016 at 7:30 p.m.

Administrative Approvals

- **Lobb, 223 Elsinore Street:** Tree removal
Assistant Director Capone said that the homeowners have contracted an arborist to look at several trees. There is a Norway maple in the front yard that is not in good shape and a triple oak that is located in the back corner of the lot at the top of the embankment to the Sudbury River that is a threat to the neighbor's house. There is also a cherry tree that is behind the oak that they would like to remove which the

neighbor is concerned with its health. The stumps will remain. Native species will be planted. Approval was granted.

- **Lucks, 165 Indian Spring Road: Tree removal**
Director Kaye said there are three willow trees with storm damage that the property owner would like to remove. The trees are in wetlands. The property owner would like permission to cut trees, chip them and haul them off site. The chipper would stay on the pavement. Stumps will remain. Approval was granted.
- **Napier, 135 Everett Street: Tree removal**
Assistant Director Capone said the homeowners would like to remove an ash tree that has been identified by an arborist as a hazard. Limbs have fallen recently through the homeowner's garage. The tree would be removed but the stump would remain. The homeowner's would also like to remove a small fir between their house and their neighbor. The arborist had informed the Napiers that it is in decline due to beetles, which they do not want to infest the neighboring trees. Approval was granted.
- **Sherrill, 206 Southfield Road: Fence**
Director Kaye stated that this property is next to a house that was recently torn down and rebuilt at 216 Southfield Road. Ms. Sherrill would like to put in a 4-foot high by 4-foot long fence in the outer riverfront to screen that section of her house. Approval was granted.
- **Morrissey, 38 Aurora: Screen in porch**
Director Kaye informed the Commission that the homeowners would like to screen in an existing 14-foot by 15-foot deck. There is no earth work and work will be on the existing footings. The porch is approximately 90 feet from wetlands. Approval was granted.

Commissioner Zaunbrecher moved to adjourn. Commissioner Poutasse seconded. All so voted. This meeting adjourned at 9:05 p.m.

Respectfully submitted,

Karen Bockoven
Administrative Assistant